

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte THOMAS J. KENNEDY, III

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Appeal No. 2004-0086  
Application No. 09/730,868

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ON BRIEF

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Before GARRIS, OWENS, and LIEBERMAN, Administrative Patent Judges.

LIEBERMAN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the decision of the examiner refusing to allow claims 1 through 6, which are all the claims pending in this application.

THE INVENTION

According to the appellant, the invention relates to a golf ball having two groups of dimples on the surface. One group has a circular configuration. The second group has both a first circular portion and a second circular portion. The two groups of dimples

may be randomly arranged. Additional limitations are described in the following illustrative claim.

### THE CLAIM

Claim 1 is illustrative of appellant's invention and is reproduced below:

1. A golf ball having a spherical surface containing a plurality of dimples, a first group of said dimples having a circular configuration and a second group of said dimples having a compound configuration including a first circular dimple portion and a second circular dimple portion arranged in a bottom surface of said first circular dimple portion, said second circular dimple portion having a diameter less than that of said first circular dimple portion, whereby the circular and compound dimples increase the turbulence of the air flow at the golf ball surface to improve the flight characteristics of the ball.

### THE REFERENCES OF RECORD

As evidence of obviousness, the examiner relies upon the following references:

Oka et al. (Oka)	5,174,578	Dec. 29, 1992
Cadorniga	5,470,076	Nov. 28, 1995

### THE REJECTIONS

Claims 1 through 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Oka in view of Cadorniga.

### OPINION

We have carefully considered all of the arguments advanced by the appellant and the examiner and agree with the examiner for the reasons stated in the Answer and the reasons herein that the rejection of the claims is well founded. Accordingly, we affirm the rejection.

As an initial matter, it is the appellant's position that, "[a]ll claims stand or fall together." See Brief, page 3. Accordingly, we limit our consideration to independent claim 1. See 37 CFR1.192(c)(7)(2003).

### The Rejection under Section 103

The appellant has correctly stated that the sole issue before us for consideration is whether the combination of Oka and Cadorniga provide the requisite motivation to combine a circular dimple as taught by Oka with a compound dimple as taught by Cadorniga. We answer that question in the affirmative and accordingly sustain the rejection by the examiner.

Oka is directed to a golf ball having improved dimple configurations so that the golf ball has favorable flight performance. See column 1, lines 7-10. By favorable performance, Oka states that an object of the invention is to provide, "a golf ball capable of flying a long distance." See column 1, lines 48-49. We find that Oka's contribution to the art is obtained by, "arranging on the surface of the golf ball dimples consisting of different configurations so as to increase the turbulence of air flow in the periphery of the golf ball." See column 1, lines 50-53. We further find in this respect that the dimples are arranged on the surface of a golf ball for the purpose of increasing turbulence in the air flow at the periphery of a golf ball. See column 2, lines 25-28. Indeed, the more a dimple is adjacent to dimples of different surface configurations the greater the dimple effect. See column 2, lines 28-30.

Cadorniga is likewise directed to a golf ball having improved configurations of dimples so as to provide for, "excellent range and accuracy." See column 3, line 54 to column 4, line 4. We find that Cadorniga discusses therein the same peripheral boundary layer forces which affect the distance traversed by a golf ball. Id. In this respect we find that Cadorniga is directed to a golf ball having a configuration wherein the dimples have a major dimple configuration comprising a first recess and a minor dimple configuration comprising a second recess in the bottom wall of the major dimple configuration which contributes to the range and accuracy of the golf ball. See column 1, lines 42-57. Inasmuch as the Cadorniga reference teaches yet another dimple for the same purpose as the dimple combinations disclosed by Oka, it would have been obvious to the person having ordinary skill in the art to have utilized a combination of dimples as disclosed by Oka wherein one of the dimples in the combination is that disclosed by Cadorniga, particularly as the dimples of Cadorniga are used for the identical purpose as that disclosed by Oka.

Based upon the above considerations, we conclude that the examiner has established a prima facie case of obviousness against the claimed subject matter. In our view the prior art would have suggested to those of ordinary skill in the art to have chosen a dimple designed for improved range and accuracy as one of the dimples to be utilized in the combination of dimples disclosed by Oka. As each of the references is directed to improvements in golf ball flight technology, there are both ample motivation and a

reasonable chance of success in choosing the specific modifications disclosed by Oka and Cadorniga respectively. We further conclude that the prior art has revealed that in so making or carrying out, those of ordinary skill in the art would have had a reasonable expectation of success. See In re Vaeck, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991).

Based upon the above evidentiary findings, we conclude that it would have been obvious to one of ordinary skill in the art to have utilized the compound dimple of Cadorniga in the combination of dimples disclosed by Oka. Accordingly, we affirm the rejections over Oka in view of Cadorniga.

#### DECISION

The rejection of claims 1 through 6 under 35 U.S.C. §103(a) as being unpatentable over Oka in view of Cadorniga is affirmed.

The decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

BRADLEY R. GARRIS  
Administrative Patent Judge

TERRY J. OWENS  
Administrative Patent Judge

PAUL LIEBERMAN  
Administrative Patent Judge

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